

# THE CAUCASIAN.

VOL. XIX.

RALEIGH, NORTH CAROLINA, MARCH 28, 1901.

No 15

## TRIAL OF THE JUDGES

### A CONDENSED REPORT OF THE IMPEACHMENT PROCEEDING.

#### POWERFUL ARGUMENT FOR DEFENSE.

Conclusion of Judge Furches' Testimony—Justices Montgomery and Douglas Testify—Judges not Influenced by Political Considerations—A Partisan Trial for Political Purposes

(Continued from Last Week.)

Q.—How can a rehearing be arrived at in cases where a case goes off the docket?"

[Witnessed explained.]

Q.—Why did you, the court, not entertain the request of Harris alluded to?"

A.—"Because there was nothing before the court." The rules of practice before the Supreme Court were then explained, in response to question.

Continuing, the witness said:

"If Harris had brought the matter up before the court in the way I thought proper I should have done in his favor—that the clerk should issue the writ."

"While there is no printed rule about filing opinions after court adjourned, there is a rule among the members of the court that no dissenting opinion shall be filed after the opinion in the case is filed, except by consent. I have never filed a dissenting opinion in that way, but I believe some have been so filed by unanimous consent."

"My recollection is that the volume of the Reports for that term was already printed at the time the request of Judge Clark was made, and it admitted would be that case have to be printed in a subsequent volume of the Reports."

Q.—"Did you have any interest in the White case?"

A.—"None on earth, except to do my duty as a judge."

I did not know Mr. White; never saw him, until this week, in my life, and had no sort of interest in the man.

"I never mentioned this case to Colonel Kenan at any time unless he mentioned it to me first—in his office, in conference or anywhere else."

"I never mentioned this case to either Mr. Ayer or Mr. Worth in my life. I have nothing to do with their connection with the matter."

"It never passed my mind. I never thought Ayer or Worth or any ministerial officer would refuse to obey an order of the Supreme Court. I never thought of asking either of them anything on the subject."

Judge Montgomery said to Judge Clark:

"You have been to Treasurer Worth and threatened him if he obeyed the order of this court."

Judge Clark said he saw him (Worth) at his office at Worth's request. But Worth said Clark did not come at his request, but voluntarily.

Judge Montgomery said:

"Judge Clark said to Mr. Worth that if there be a mandamus there will be three vacant seats over yonder in the Supreme Court room."

Judge Montgomery said to Judge Clark:

"Worth says you came to him for my own accord and not by invitation."

Judge Clark did not deny it.

"When respectable counsel come into our court with record made up, I should take it to be a reflection on respectable counsel to go hunting around and—"

(Mr. Allen of the prosecution objected.)

Judge Furches stated that he did not desire to inject any remark that was improper or out of order.

Q.—"In the White vs. Auditor case were you influenced in any way by political or personal considerations?"

A.—"I again answer I was not. I had never seen and did not know Mr. White. I knew nothing of the auditing of the claim of White. I have never seen any of the papers introduced here the other day from the Auditor's office, and know nothing of them."

This closed the direct examination.

HIGH CHARACTER OF CHIEF JUSTICE FURCHES.

The first "character witness" examined was Hon. William M. Robbins, ex-Congressman, and in years ago considered one of the greatest Democratic campaigners in North Carolina.

He was examined by Mr. Osborne of counsel for the defense.

"Do you know David M. Furches?"

"Yes: for 35 years I have known him well, intimately."

"What is his character and general reputation?"

"As good as that of any man in North Carolina, for truth, honesty, and integrity—though I always differed from him in politics," added the witness.

Cross-examined by Mr. Watson:

"Something of a politician, wasn't he—he has frequently been a candidate for office, has he not?"

"Yes, he has been a candidate for office. He ran against me once for Congress, I turned him down. He was generally defeated because he

resided in a strong Democratic county. His politics never interfered with our personal friendships—and I learned to love him!" declared the venerable witness with emotion.

Asked by Mr. Watson if Judge Furches was not a "bitter partisan," Major Robbins replied:

"No more so than you or I, Mr. Watson—I hated his politics, but loved the man."

"After canvassing the district once for sixty days together, we were as friendly as brothers ourselves, though running against one another, and we remained so after the canvass was over."

Mr. John B. Holman, ex-member of the Legislature from Iredell county, was the next witness. He said:

"I am a resident of Iredell county, and have represented my people in the Legislature."

"I have known Judge Furches for 40 years and more. At one time I resided some 40 miles from him, but since he removed to Iredell to live I have resided within 12 miles of him."

"His general reputation all this time, has been good."

Cross-examined by Mr. Watson, witness said in response to question that effect, that Judge Furches had been a strong party man and some had regarded him as "bitter."

Q.—"Was he not regarded as so bitter that gentlemen of opposite politics refrained from mentioning politics in his presence?"

A.—"I cannot say that. They did not take the liberties with him, politically that they did with some others, in discussing politics."

On redirect examination Mr. Holman was asked by counsel this question:

Q.—"You have always been opposed to him in politics. I ask you if he was at any time 'bitter' that his politics interfered with your personal relations at any time during all these years?"

A.—"No, sir; we have always been and remain on very friendly terms."

Mr. J. H. Hoffman, another character witness, said that he had been the "next door neighbor" of Judge Furches for many years and a near neighbor for twenty-two years; had known him well during all that time.

"His character and standing is very high—as high as that of any man in Iredell county, as to honor and integrity."

Dr. S. W. Stephenson had known Judge Furches intimately for twenty-five years; known him as well as I any citizen of our county.

"His general reputation and character is as high as that of any man. Mr. Holman's character is good, also."

QUESTIONS BY SENATORS.

Through the President of the Senate Senators Woodard and Henderson propounded several questions to Judge Furches.

Senator Woodard's question was:

"If the Supreme Court did not direct the clerk to issue the writ, what complaint, if any, was made by the court when it ascertained that the writ had been issued?"

To this Judge Furches responded as follows: "None, by me. And the evidence here says none of either members of the court, except Judge Clark."

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"Yes, he has been a candidate for office. He ran against me once for Congress, I turned him down. He was generally defeated because he

White was deprived of a vested briefs as a part of his testimony. Objection by prosecution.)

He was then questioned on the White case and said that the case was advanced because State cases were usually when the public interest was involved.

The Supreme Court adjourned in June and witness was asked why it was in session so long. Judge Douglas replied in part:

"I was largely responsible for that, I think. My health had not been good and I was kept very busy with some important cases. The decision in the case of Debnam vs. the Telephone Company, involving the constitutionality of the Craig act, was given to me to write. The court was left open so that I could file these opinions, Judges Clark and Montgomery, and have represented my people in the Legislature."

He said he knew nothing of the White case except as it came up on agreed suit. The case was argued and a majority of the court held that he was entitled to his mandamus. He had not met White until a few days ago.

Continuing, he said that after the court left and went home the next he heard of it was when Mr. Harris came into court and complained that he could not get the money. Judge Douglas, when questioned, gave about the same description of the incident in the court room when Col. Kenan asked for instructions. Col. Kenan wanted the court to instruct him to issue the writ, which the court declined to do then as there was nothing before the court. At Col. Kenan's request for his private opinion he wrote a note which he read. This note said he had been influenced by party or partisan considerations; he had become convinced that Hoke vs. Henderson was the law of North Carolina. "As to more recent decisions, it was the law in 1897. It is still the law."

The court said that after reading article 5 of the impeachment articles, where it is alleged that, by a "specious course of reasoning," etc., he would hold with the counsel for the defence and overrule the objections of the prosecution.

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Governor Jarvis then asked the witness propounded by Senator Henderson to Judge Furches at the morning session, which were promptly answered.

The witness said that there were two questions, one being whether White was entitled to pay, if so in what amount. Both the Auditor and Treasurer submitted those questions to us, and they being parties, it was deemed proper that the mandamus should issue.

As to minor details, they could have been left to the Auditor and settled by the Treasurer.

Q.—"How did the Supreme Court decide the case?"

Witness said it was not the intention to interfere, because it was supposed and ought to have been properly done.

The motive that influenced me by the question presented, whether the pay should be \$900 or \$400 per year—and as fund should be paid out funds set aside for that purpose, and not at rate of \$900 as per act of 1897. In other words, we took it that he was to draw his pay according to the act of 1899, because the Legislature had the right to reduce the salary, as we conceived it.

Q.—"Ought not the court to have requested the Auditor to report the amount claimed to the court before order of mandamus?"

A.—"It did not so appear to us, but that Treasurer should pay after warrant was issued by the Auditor—that is what I understood to be the order of the court."

The paper which Judge Douglas called the "order" of Judge Clark was that in which he (Clark) ordered Clerk Kenan not to issue the writ of mandamus, and stating that the court had never ordered him to do so.

Q.—"Would not the clerk be liable to be sued if he issued the writ?"

The corrections in Judge Clark's opinion were not made in my presence, and I knew nothing about the erasures until the time of the legislative committee meeting. I told Judge Clark that his opinion could go in the Reports only as his "obligatory notice," and that he (the witness) would not object to that. It was said pleasantly, and caused no ill feeling that I am aware of. I regard the absolute independence of the judiciary as absolutely necessary to the proper performance of the duties. I have never intended to deny any member of the court any right or privilege due him, and I do not think I have ever sought or tried to bring the court into dispute. On the contrary, I have tried to uphold its rights as a co-ordinate branch of the State government. I was called upon to pass upon the constitutionality of them, I have done so, and even then I have studiously endeavored to eliminate only the unconstitutional portions of such acts, and to leave all in effect that could be left in force."

The following witness, all from Greensboro (the home of Judge Douglas) were sworn and testified to his good character and standing:

President Dr. Dred Peacock of the Greensboro Female College.

Capt. J. W. Fry, a banker.

Mr. J. J. Hunter, a manufacturer.

Mr. J. A. Odell, a hardware merchant.

Neither of the witnesses was cross-examined, and they retired after merely answering the formal question put to them by Mr. Bynum.

JUDGE MONTGOMERY ON THE WITNESS STAND.

After Senator Henderson had introduced a resolution, which was adopted, providing for the payment of per diem and mileage of the character witness examined the preceding day, Justice Montgomery of the Supreme Court was called to the witness stand and sworn.

In response to questions by Mr. Cook, of counsel for the respondents, who conducted the examination, the witness said:

"I had no predilections in favor of the Hoke vs. Henderson case, and certainly no party or partisan consideration influenced me in agreeing with a unanimous court in the decision of the first cases of this office-holding character. My judgment was influenced and I decided against my political friends solely by the argument and briefs of the counsel for the defendants. Having given my vote in favor of the doctrine of the Hoke vs. Henderson case, I have seen no reason to change my mind. These briefs I now have."

Q.—"What was the principle involved in that case?"

A.—"That a public office was

responsible to the people, and that the witness was allowed to file these

## WORK OF A DAY.

### HORRIBLE ACCOUNTS OF MURDER, DEATH AND LAWLESSNESS.

### DEADLY WORK DONE BY AXE, CLUB AND RAZOR.

Six Children Murdered by a Maniac—Man Shot and Killed by Desperadoes in Polk County—Three Children Brained with Axe.



## THE CAUCASIAN

Raleigh, N. C., March 28, 1901  
Entered at the Post Office in Raleigh, N. C., as second-class mail matter.

### MR. R. A. COBB DIES SUDDENLY.

Fell Senseless on Sidewalk Between His Home.

Morganton, N. C., March 27.—Mr. R. A. Cobb, former State Librarian, fell senseless on the sidewalk between the store and his home last night about nine o'clock. He was carried home and expired a few moments later. The cause of death is supposed to have been heart failure.

A Horrible Death.  
News and Observer.

Representative Stuart, of Harrington, is in the city: He tells of the horrible death in that county of Miss Annie Morris, daughter of Mr. Andrew Morris. Mr. Morris was in one part of the field at work. His daughter noticed that the fence was on fire in an opposite part of the field, and went to extinguish the flames. Her dress caught fire, and she died from the smoke. Coming to the field, Mr. Morris heard a noise in a ditch, and found his daughter, her clothes burned off, lying in the ditch dying. She had probably sought the ditch hoping that it contained water so that she could extinguish the flames.

### Safe Blown Open.

Burglars blew open the safe of the southern Express Company in Raleigh Monday night, but were frightened away by the noise made by the explosion, and left without securing any booty. The burglars entered the office by the rear door. The explosive used was dynamite, and so large a quantity was used that the door to the safe was demolished and the windows of the building were shattered. The explosions shook all the houses for two blocks on Fayetteville street. The burglars, ran out the back way and left the city by the way of Hargett street.

Old Man Burned to Death Near Charlotte.

Charlotte, N. C., March 28.—News reached here of the burning to death yesterday afternoon of an aged white man named Brock in Cabarrus County. The body was finally found in the fire by means of bone-wire hooks. It was late, the head of the old man having been burned off. It is supposed that Mr. Brock went to sleep before the fire and that the fire popped out, setting to combustible material about him.

### Fire in Winston Jail.

Winston-Salem, N. C., March 23.—Intense excitement was created this evening by fire breaking out in the jail. The prisoners became terribly alarmed and were taken out through the smoke screaming. One colored man lost his reason and had to be carried to the town lock-up. It was thought for a time that one prisoner had escaped, but this was a mistake. The fire was extinguished before serious damage was done, though considerable water was thrown on the building.

### A Dun on a Postal Card.

Wilmington, N. C., March 23.—For trying to collect a small debt by postal card and threatening to trouble if it was not paid, N. B. White of Maxton, was arrested last night by post-office inspector Jerry Connally for violation of the Federal statute and held under \$200 bond for appearance at the Federal Court here next month.

### Boers Wreck Supply Train.

Standerton, Transvaal, Colony, Friday, March 22.—Four hundred Boers under the Boer commander, Byers, have wrecked a supply train north of Vladklaagte. They overpowered the escort and carried off several wagon loads of provisions. A convoy destined to join General French's column has been attacked between Blood river and Scheepers' neck, Transvaal colony. The British had one man killed and three wounded. The bridge at Blood river was burned.

### New Steamboat Company.

The Secretary of State has issued a charter to the Fayetteville-Wilmington Steamboat Company with a capital stock of \$25,000. The incorporators being E. W. Cooke, New York; W. J. Holt, W. H. Morgan, Fayetteville, and R. P. Gray, of Guilford. The company is authorized to operate a steamboat line from Fayetteville to the mouth of the Cape Fear river and eastward as far as New York.

See the advertisement of Daniel Allen & Co., elsewhere in this issue. They are the new and progressive shoe dealers of this city and you should inspect their stock of shoes before buying elsewhere.

Miss Salie Walker Stockard's new book, "The Lily of the Valley," a dramatization of the psalms of Solomon is now in the hands of the printer and will be put on sale in a few days. Miss Stockard is author of "The History of Alabama."

### Spread of the Plague.

Cape Town, March 24.—The bubonic plague continues to spread here. There is an average of 6 fresh cases officially reported daily.

We call the attention of our readers to the new advertisement of Dobbin & Fennell which appears in another column of this issue. Be sure and give them a call when you need anything in their line.

The Weather Bureau states that snow occurred in this State on eight days in February, sleet on eleven, fog on six, solar halo on seven, and gales on eight. The average number of clear days was sixteen, partly cloudy six, cloudy six and rainy eight.

"Pardon me, sir, but I heard you tell the gentleman who just left that you would wash your hands of the whole affair?" "Well?" "In case you do, may I hope that you will try my patent soap?"

### JUDGE BYNUM'S SPEECH.

(Continued from Second Page.)

### A Strong Plea in Defense of Justices Douglas and Furches.

We print below the opening and closing paragraphs of Judge Bynum's speech, the first delivered in defense of the impeached Judges:

Mr. President and Senators:—The learned counsel with whom I am associated have directed me to speak the first word in the defense of these respondents. I am to speak to the Senate of North Carolina sitting as the ultimate tribunal of the State, presided over by the Lieutenant Governor, in behalf of the Chief Justice and an Associate Justice of the Supreme Court, who has been arraigned before you charged by the House of Representatives with the commission of high crimes and misdemeanors in office. It is a controversy of such vast importance to the accused, involving their reputation, their honor and their future usefulness, and to the State the judiciary—it is natural that I should for some embarrassment in assuming this grave and responsible task. But the wish of the respondents and their counsel commands my utmost obedience and I therefore hasten to the performance of the duty which has been assigned me.

I would sooner think it were this way if any application were made to Vance, that he replied: "I cannot take the employment because I am a Senator-elect from North Carolina, and it would not accord with my idea of propriety that I should engage as an attorney in this State trial." The remark by the gentleman from Buncombe was intended to discredit Democratic lawyers who would represent the impeached judges on this trial, or it didn't mean anything. Vance certainly didn't have that view for a few years afterward when Governor of the State he appointed the leading attorney for the defense of Holden, W. H. Smith Chief Justice of North Carolina.

My friend, Major Guthrie, talked about the fusion crowd swarming here and lobbying and hollering and crying for office. There may be many tragic and spectacular things in this trial, but this is the comedy feature. My friend voted to bring that crowd here and he accepted office from them. He was their nominee for Governor. He helped bring that horde of office-seekers here. Now he comes here and asks you to impeach these judges because they did not allow them to go in office. It is so, and everlasting so, and you know it.

Mr. Watson said that Hoke vs. Henderson is the law, but that the judges have extended it too far. Major Guthrie says it was the law, but the Constitution as amended has nullified it. I will show that this argument is the most absurd that was ever advanced by a man who had license to practice law.

Major Guthrie says it was the law, but the Constitution as amended has nullified it. I will show that this argument is the most absurd that was ever advanced by a man who had license to practice law.

The honorable manager who opened for the prosecution declared in the beginning of his address that strong influences had been employed to divert the minds of Senators from the real issue involved in this trial and to create the belief that the people of the State do not approve of this proceeding; and that such influences and suggestions could in every instance be traced to those personally interested in the defense.

Mr. President, in view of the situation of the respondents and the complexion of that body in which this proceeding originated, as well as of those before which it is to be tried, the statement of the learned manager is, to say the least, surprising. Charged with grave offenses, suspended by operation of law from their high positions, with only a handful of friends in either branch of the Assembly, while the friends of the managers are dominant in both, it is difficult to discern how the strong influence to which the honorable manager refers could exert their power. No considerate man will say that these judges have sought by word or deed to prevent a calm, fair, judicial consideration of this case. That the real question is unobsured, that party spirit, political schemes and foregone conclusions may be abandoned, that there may be held here a trial in which impartial justice, according to the Constitution and the law, shall be administered, is their hope and their reliance. The testimony before the House committee, published and eagerly read throughout the State, if upon reading it the fair and impartial people of this conservative Commonwealth have felt constrained to declare their firm belief in the integrity and innocence of these judges, they should not be blamed nor should the managers complain; for the conviction even of the guilty is not always occasion for rejoicing, while the condemnation of the innocent is a lasting calamity.

Now, Senators, having hurriedly gone through the charges which have been preferred against these judges, having reviewed briefly and imperfectly their behavior since they came upon the bench, I invite you to look back upon their official lives and discover, if you can, anything so dark and criminal as to justify the infliction of the terrible punishment which would be involved in a conviction upon this impeachment. Where is the crime, where is the wrong they have committed?

One of them, a son of an honored father, whose name and fame are dearer to him than any other, has reached the median of life with a bright prospect of usefulness before him. The other, a product of our native soil, rugged in his honesty and integrity, full of years and rich in the respect of his fellow-men, is fast approaching the evening of life. As Mr. Webster said of Judge Jay, when the ermine fell upon his shoulders it touched nothing less white than itself. In the name, I say to you, as the great Hebrew sage would say to the people of Israel in the olden time, "Behold! here I am, witness against me before the Lord and before His Anointed, whose ox have I taken? Or whose as have I taken? Or whom have I defrauded? Whom have I oppressed? Or of whose hand have I received any bribe to blind mine eyes therewith?" And I trust the answer of this Senate will be like that which the people of Israel gave to Samson. They said, "Thou hast not defrauded us nor oppressed us, neither hast thou taken aught of any other buildings were unroofed.

Didn't want to rob Good People. Paterson, N. J., March 26.—A robber who entered the residence of the late Vice-President Hobart Sunday night, and who departed with any booty or finding the silverware marked, left the following note in a loving cup, which had been given to Mrs. Hobart by the Old Ladies Home Society for charitable work:

"I humbly beg your pardon. I do not want to rob good people."

Kansas Women Registering.

Topeka, Kans., March 23.—The temperate agitation started in this city by Mrs. Nation has resulted in bringing out the heaviest registration for the spring election in the history of the city. The registration books just closed show a registration of 15,000, of which 6,000 are women.

The registration last fall for the presidential election was 10,174 men, which shows that women are taking the greatest interest in the election this spring.

The opposition has also been very active, and the coming election promises to be the most exciting event held in the city. The election will take place April 2d.

The price of cotton on the Raleigh market remained at 8 $\frac{1}{2}$  to 9 cents Tuesday, with light receipts.

### TRIAL OF THE JUDGES.

(Continued from Second Page.)

it on the ground that Holden was politically opposed to him—then go and tear down his picture in the House of Representatives, for it has no business there.

I would sooner think it were this way if any application were made to Vance, that he replied: "I cannot take the employment because I am a Senator-elect from North Carolina, and it would not accord with my idea of propriety that I should engage as an attorney in this State trial."

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It is strange how the gentleman who preceded me should be so ignorant of the jurisprudence of his own State. He says there is no claim against the Auditor and Treasurer that is not a claim against the State. A subject cannot sue his sovereign. So that North Carolina, following

(Continued next week.)

Blizzard in Colorado.

Julesburg, Colo., March 26.—The blizzard that has been raging here in this vicinity is the worst storm known since 1890. Many cattle have perished by drifting with the storm. Others have been smothered in snow drifts, in ditches and the river. Hugo drifts, 5 to 10 feet high, block all roads. In several instances houses are completely surrounded by huge雪片.

Burned to Death at a Distillery.

Roanoke, Va., March 23.—News has reached Roanoke from Shooting Creek, Franklin county, a remote section of the State, that F. J. Thompson, Clark vs. Thompson in which the constitution was annulled in 1865, and neither Judge Clark nor Judge Montgomery wrote the opinion. It was written in 1873. Capt. Cook called it specially to the attention of Maj. Guthrie. Continuing, he said:

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